

---

**Federal Communications Commission**

---

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	File No.: EB-05-PO-183
Bradley Lynn Kinney	)	
d/b/a/ Primerush CB Shop	)	Citation No.: C20063292001
	)	
Boise, Idaho	)	

**CITATION**

**Released: October 31, 2005**

By the Resident Agent, Portland Resident Agent Office, Western Region, Enforcement Bureau:

1. This is an Official Citation issued pursuant to Section 503(b) of the Communications Act of 1934, as amended (“Act”),<sup>1</sup> to Bradley Lynn Kinney, d/b/a Primerush CB Shop, for violation of Section 302(b) of the Act,<sup>2</sup> Section 2.803(a)(1), Section 2.815(b), and Section 2.815(c) of the Commission’s Rules.<sup>3</sup>
2. An investigation by the Commission’s Portland Office revealed that on September 29, 2005, you offered for sale non-certified Citizens Band (CB) transceivers, namely, General Model Lee, Magnum Model S-6, and External Radio Frequency Power Amplifiers, namely Power Devil and Palomar Model Elite 250HD for CB use. According to the Commission’s records, these devices have not received an FCC equipment authorization which is required for Citizens Band transmitters marketed in the United States.
3. Section 302(b) of the Act provides:

“No person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Rules provides that “...no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: (1) In the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled...”

Bradley Lynn Kinney, d/b/a Primerush CB Shop’s offer for sale of these devices violates both sections.

---

<sup>1</sup>47 U.S.C. § 503(b)(5).

<sup>2</sup>47 U.S.C. § 302a(b).

<sup>3</sup>47 C.F.R. §§ 2.803(a)(1), 2.815(b), & 2.815(c).

4. Additionally, dual use CB and amateur radios of the kind at issue here may not be certificated under the Commission's rules. Section 95.655(a) of the rules states: "... ({CB} Transmitters with frequency capability for the Amateur Radio Services...will not be certificated.)" *See also* FCC 88-256, 1988 WL 488084 (August 17, 1988). This clarification was added to explicitly foreclose the possibility of certification of dual use CB and amateur radios, *see id.*, and thereby deter use by CB operators of frequencies allocated for amateur radio use. The Galaxy model CB transceivers previously mentioned were identified as having the modification or the capability to enable dual use of CB and amateur frequencies.

5. Furthermore, the Commission has revised Section 2.1204(a)(5) of its rules to prohibit all marketing and/or offering for sale in the United States of such devices even when the purchaser(s) had provided assurances that the transceivers are being bought solely for export. ALL DOMESTIC MARKETING OF SUCH DEVICES VIOLATES THE COMMUNICATIONS ACT OF 1934, AS AMENDED, AND THE COMMISSION'S RULES.

6. In addition to the marketing of the non-certified transceivers addressed above, Bradley Lynn Kinney, d/b/a Primerush CB Shop is warned that Section 302(b) and Section 2.815(c)<sup>4</sup> of the Commission's Rules requires FCC Type Acceptance or (Certification) of External Radio Frequency Power Amplifiers (or amplifier kits) capable of operation on any frequency below 144 MHz. Furthermore, Section 2.815(b)<sup>5</sup> of the Commission's Rules prohibits the marketing of External Radio Frequency Power Amplifiers (or amplifier kits) capable of operating on any frequency between 24 and 35 MHz.

7. Subsequent violations of the Communications Act or of the Commission's Rules may subject the violator to substantial monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation, seizure of equipment through *in rem* forfeiture action, and criminal sanctions including imprisonment.

8. Bradley Lynn Kinney, d/b/a Primerush CB Shop may request a personal interview at the closest FCC location to its place of business, namely:

Federal Communications Commission  
Seattle District Office  
11410 NE 122<sup>nd</sup> Way  
Suite 312  
Kirkland, WA 98034-6927

which can be contacted by telephone at 360-696-6707. Bradley Lynn Kinney, d/b/a Primerush CB Shop may also submit a written statement to the Seattle District Office at the address indicated above, within 30 days of the date of this Citation. Any written statements should specify what actions have been taken to correct the violations outlined above. When corresponding with the Commission, case number EB-05-PO-183 should be referenced.

---

<sup>4</sup>47 C.F.R. § 2.815(c).

<sup>5</sup>47 C.F.R. § 2.815(b).

## Federal Communications Commission

---

9. Any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.<sup>6</sup> Any knowingly or willfully false statement made in reply to this Citation is punishable by fine or imprisonment.<sup>7</sup>

FEDERAL COMMUNICATIONS COMMISSION

Binh Nguyen  
Resident Agent  
Portland Resident Agent Office  
Western Region  
Enforcement Bureau

---

<sup>6</sup>See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

<sup>7</sup>See 18 U.S.C. § 1001 *et seq.*